

REMARKS:

The minor correction in the specification has been entered to enter the serial number or the application which has now become available. Another minor amendment has been made on the same page to correct an erroneous patent number.

The claims have been amended in minor respects for clarity and consistency of language bearing in mind the points raised during preparation of this response. It is believed that the amendments will be clear without necessity for specific individual comment.

The Examiner has indicated the allowability of Claims 3 to 6, 8, 10 and 12. Claims 3, 4, 10 and 12 have been amended so as to be presented as independent claims including all of the limitations of the original dependent claim and the independent claim from which it depended. In addition some minor corrections have been entered into the claims as set forth above. However it is believed that these Claims 3, 4, 10 and 12 are now distinguished from the prior art as kindly indicated by the Examiner and therefore should be allowable.

Turning now to Claim 1, this has been amended to add or clarify the following features:

- a) The rotary feed member is a driven rotating member so it carries the crop underneath the member which is then fed into the feed opening of the combine harvester. This distinguishes from the arrangement of Cunningham which uses an idler roller as a simple guide. The concept of the driven member is of course known per se. It is further believed that the term "rotary feed

member" previously incorporated this concept of driving or feeding the material but this has now been made more clear in view of the Examiner's citation of a document including a simple idler roller.

- b) The driven rotating feed member is located at a position just in front of the feed opening of the feeder house so that the crop is carried thereby and feed into the feed opening. Again this feature, it is believed, was implicit in the original claim but this has now been made more clear, again to distinguish from the prior art of Cunningham cited by the Examiner. The feature is of course known per se.
- c) The driven rotating feed member is mounted for upward and downward pivotal floating movement in response to changes in thickness of the crop. Again this feature is known per se and, is believed, was implicit in the claim as originally presented but again this has been made more clear in view of the Examiner's citation of Cunningham showing a roller which is manually adjustable in position by a sliding guide system as opposed to the pivotal floating action with which the present invention is concerned.

The Examiner has appreciated that the prior art cited of Patterson 343 does not disclose a number of the elements concerned that is

the floating movement of the driven rotating feed member and its width so that it fits between the side drapers so as to project forward to a position between the side drapers and forwardly of the rear edge of the side drapers.

Thus the roller of Patterson is relatively wide and extends part way on to the side drapers in front of the frame and rear sheets of the header. The roller of Patterson therefore does not so effectively co-operate with the inlet opening into the feeder house since it is located well forward of the feeder house as part of the header itself.

The Examiner will appreciate that the header in an arrangement of this type is intended to be a floating header which pivots side to side and raises and lowers relative to the feeder house. Thus the relatively wide roller of Patterson is less effective in cooperating with the feeder house in view of its position and its movement relative to the feeder house.

Having appreciated the deficiencies of Patterson, therefore, the Examiner has cited Cunningham 348. The Examiner has pointed to roller 95 which is located between the side drapers. The Examiner suggests that it is merely obvious to take the roller 95 of Cunningham and to place this in the arrangement of Patterson.

However it is well established that it is necessary for the whole teaching of a patent to be considered before a particular element is extracted from that patent and transferred to another location. It is not proper to make such transfer without consideration of the operation and the effect of the item concerned. To do so requires the intervention of hindsight.

The roller 95 of Cunningham is entirely different from the roller of the present invention or of the arrangement of Patterson based upon the following points:

- a) It is merely a idler roller and is not driven.

- b) It is located well forward of the side drapers and the feed draper so that its function is in no way related to that of the roller of the present invention.
- c) It forms a part of the drag system defined by the inclined plates and is located behind the forward edge of the inclined plate at the center of the drag system.
- d) Even if one were to consider that the conditioner rolls 17 are equivalent to the inlet opening to the feeder house of the combine harvester, which is pure speculation, it is clear that the idler roller 95 does not in any way act to feed the crop material into the conditioner rolls in view of the large spacing forwardly of those rolls and the fact that it is not driven.

It is fully clear therefore that the idler roller 95 does not function at all in the equivalent manner to the rotor feed member of the present invention or the rotor feed member of the prior Patterson patent.

It is submitted therefore that it is not proper to merely extract the roller 95 from Cunningham and to introduce that roller into the Patterson disclosure.

Furthermore, one must in attempting to combine the disclosures of Cunningham and Patterson, consider the teaching of the patents concerned. Cunningham discloses a drag system which is arranged and designed to orient the crop in a particular manner. This drag system is formed primarily by the inclined plates over the side drapers and over the feed draper. The crop thus falls onto these plates and is turned by its cooperation with the drag plates and with the drapers into a particular orientation.

It is submitted therefore that a **proper** combination of the disclosures of Patterson and Cunningham would be to add to the disclosure of Patterson the additional elements of Cunningham, that is the drag plates and the roller 95, in front of the existing rotating feed member of Patterson. Thus if one considered the disclosure of Cunningham and wished to combine that disclosure with Patterson, one would presumably do this for the purposes of providing the orientation which is the disclosure of Cunningham. In this case the drag plates and the idler roller 95 would be located adjacent the cutter bar and well forward of the inlet to the feeder house. These elements can only operate if they are positioned closely adjacent the cutter bar and at the front of side drapers and feed draper.

Thus there is no motivation in Cunningham nor Patterson to take the roller 95 and to move it to some other location when the clear disclosure is that the roller 95 would simply be added into the structure of Patterson in conjunction with the drag plates. It will be appreciated by the Examiner that such a construction clearly does not disclose the combination now set forth in Claim 1.

Turning now to Claim 9, this claim has been amended to utilize similar language to that set forth in claim 1 to more clearly define the feed member and the fact that it feeds the crop material into the inlet opening of the feeder house.

The Examiner in rejecting original claim 9 under 35 U.S.C. 103 has cited a combination of Honey 371 and Rayfield.

In Honey 371, the Examiner has referred to pan 66 and the Examiner appreciates that this pan is fixed so that it does not pivot in any way but remains attached to the feeder house as a fixed element relative thereto. In front of the fixed pan 66 is mounted the feed draper which is pivoted at its rear end. The pan 66 and the draper are therefore separate elements and separately mounted.

The present invention as defined in Claim 9 sets forth that the pan and the feed draper are on a common support for pivotal movement about a horizontal axis at the rear of the pan.

The Examiner will appreciate that in arrangements of this type the header itself is mounted for floating movement relative to the feeder house, as set forth above. Thus the header can pivot about an axis in the forward travel direction so that one end can move upwardly and downwardly relative to the other end. In addition the height of the header can move upwardly and downwardly relative the feeder house. Thus the feeder house is maintained stationary at a fixed position while the header moves to accommodate ground height and orientation.

As set forth in the Honey arrangement, therefore, the pan underneath the driven feed roller which is pan 66 is fixed relative to the feed roller. The draper which is part of the header is then mounted at its rear end on this fixed pan and the draper pivots upwardly and downwardly and twists to accommodate the pivoting action of the header.

The present inventor has realized that an improved action can be obtained by mounted the pan and the draper together on a support which is pivotal about an axis at the rear of the pan.

Clearly Honey does not disclose this arrangement nor in any way suggests that it is desirable. In Honey the pan is fixed relative to the roller and this of course provides a desirable arrangement since one element does not move relative to the other.

Having appreciated the deficiencies of Honey in this regard, the Examiner has cited Rayfield. The Examiner has pointed to Figure 3 and particularly the pan 10.

Rayfield discloses a conventional auger header for row crops. Typically the auger in such headers is fixed relative to the feeder house so that there is no pivotal movement. The Examiner suggests that the pan 10 is "pivotal about a horizontal axis located at the rear of the pan". However this suggestion is based upon speculation from the drawing of Figure 3 and there is no statement in Rayfield that the pan 10 can pivot relative to mounting assembly. The mounting assembly is of course that element which attaches the header to the feeder house. It is believed more likely that the pan 10 is indeed fixed relative to the mounting assembly so that if the mounting assembly lifts relative to the feeder house then the rear edge of the pan will move forwardly relative to the bottom edge of the feed house. In any event there is simply no disclosure of a horizontal pivot axis at the rear of the pan.

Yet further Rayfield makes no disclosure whatever of a combination of a feed draper and a pan. The Examiner has therefore extracted from the disclosure of Rayfield merely one element that is the pan and has attempted to introduce this into the disclosure of Honey without any motivation for such an element to be introduced into Honey. Taking the full disclosure of Honey and Rayfield into account, these relate to entirely different constructions in that Rayfield relates to a row crop header of the type using an auger feed system. Honey relates to a draper type header. Without the use of hindsight, it is simply not clear as to which elements should be taken from Rayfield and introduced into Honey or vice versa. If one utilizes the auger and pan of Rayfield then clearly one would discard the drapers of Honey since these elements are mutually incompatible. There is simply no reason therefore why a pan should be taken in isolation from Rayfield and introduced into Honey.

It is submitted therefore that Claim 9 is distinguished from the prior art cited under 35 U.S.C. 103 and therefore should be allowed.

An additional PTO 1449 together with the fee of \$180 is attached hereto making reference to a brochure by an Australian manufacturer of a draper type header. The date of the brochure is not known. Despite searches in prior art patents, no further information is available as to any other disclosure by this company which may constitute prior art under 35 U.S.C. 102. However, it is requested that the brochure be considered and placed on record.

Respectfully submitted

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PER: 

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